

# **Attachment C**

**Clause 4.6 Variation Request**

Ref: DA20180007

## Clause 4.6 Variation - Floor Space Ratio (Clause 4.4)

Additions to Building for Recreation Facilities/Breakout Area

20 – 40 (Lot 10, DP1103177) Meagher Street, Chippendale

Sydney City Council

November 2018

December 2018 - Amended

## **Part A: Preliminary**

### **1.1 Introduction**

This Clause 4.6 Variation request has been prepared in support of the development application (DA) for the proposed additions to the building at 20-24 Meagher Street, Chippendale.

#### ***Note: Introduction of Building Occupier***

The Commons business is an eco-system of businesses, entrepreneurs and innovation. Our mission is to provide an environment that allows businesses to connect and grow, and we achieve this through continuous research and mindful consideration of every aspect within our spaces. We support creative, tech and other burgeoning industries by creating spaces conducive to ideas creation and effective work.

We foster an environment of collaboration, learning and innovation. With social responsibility in mind, we have also developed a 'Projects' division that provides scholarships to promising start-up and growing businesses and also provide free space and mentorships for socially conscious and non-profit organisations. Some of non-profit and socially conscious companies we have supported and are intending to support include, OnePlate, The Global Women's Projects, Shelter NSW and Change.org.

As a company, we strive to be socially responsible by using only 100% renewable energy sources across all our sites around Australia, and reducing plastic waste by banning plastic cups in all our events.

The proposed additional area is to provide free access to event space for nearby/neighbourhood communities. We are a space for innovation and pay for/provide subject matter experts in order to educate, support and accommodate new businesses and tech start-ups. Our intention is to build a space where it is available to the wider community of Chippendale, available to the public, residents of the area and all community based events. A key focus for us is to give back to the nearby community where we can and providing a beautiful amenity for the wider population.

We will also be investing in education by providing The Commons Campus and have recently partnered with The Parsons School of Design which is the pre-eminent design school in the world. We are partnered to deliver Design Thinking courses which will elevate tech, product design and delivery in Australia. The Campus will be located in the proposed site development and the additional space required will be used for break out and flexible learning areas.

The area will also be used for building occupants (who are small businesses a predominantly tech start-ups) to collaborate, share meals, ideas and attend educational/social events.

Office space and amenities will all be contained within the existing structure; this additional space is for social gathering. There will be a maker space where creative minds are able to build and put ideas to life. The over 2000 plants that we are placing in and around the building will further enhance this as well as the overall design of the building.

All aspects of our business are in support of the NSW Government's effort in creating a burgeoning technology hub in Sydney, right near The University of Technology Sydney.

The additional space requested minimal and this variance enables all this to be made possible. The variation, if granted, will be used to elevate the desirability of Chippendale, the character of the local area and also serve to benefit the local residents as an added amenity.

The above information has been provided by Mr Tom Ye of the Commons.

This Clause 4.6 Variation has been submitted to assess the non-compliance of the development with Clause 4.4 Floor Space Ratio of Sydney Local Environment Plan 2012 (SLEP2012). This Clause 4.6 Variation has been prepared in accordance with the requirements of Clause 4.6 of SLEP212 which has the following aims and objectives:

- a) To provide an appropriate degree of flexibility in applying certain development standards to particular development,
- b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.

The proposed variation related to Clause 4.4 Floor Space Ratio of SLEP2012. In Summary, the following variations are proposed:

<b>SLEP2012 Clause</b>	<b>SLEP2012 Development Standard</b>	<b>Proposed Development Non Compliance</b>	<b>Current Non-Compliance</b>
Clause 4.4 Floor Space Ratio	Maximum 1.5:1 Floor Space Ratio (FSR)	The Proposal seeks development consent for a 1.7:1 FSR	Existing FSR 1.62:1

<b>Calculation</b>	
Site Area	1,741 sqm
Existing Floor area	2,834.3 sqm
Proposed floor area	2,986.4 sqm
Existing Floor space ratio: 2,834.3/1,741	1.62:1
Proposed Floor pace ratio: 2,986.4/1,741	1.71:1

In accordance with Clause 4.6 of SLEP2012 Council is required to consider the following:

Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the application that seeks to justify the contravention of the development standard by demonstrating:

- a) That compliance with development standard is unreasonable or unnecessary in the circumstances of the case, and;
- b) That there are sufficient environmental planning grounds to justify contravening the development standard.

This document has been prepared in accordance with the aims and objectives contained with Clause 4.6 and the relevant development standard.

## **Part B: The Standard being objected to**

### **2.1 Clause 4.4 (Floor Space Ratio) of Sydney Local Environmental Plan 2012**

The development standard requested to be varied is Clause 4.4 Floor Space Ratio of SLEP2012 which provides as follows:

#### **4.4 Floor space Ratio**

(1) The objectives of this clause are as follows:

- a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future,
- b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,
- c) To provide for an intensity of development that is commensurate with the capacity of existing and planned infrastructure,
- d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

2) The maximum floor space ratio for a building on any land is not to exceed the floors space ratio shown for the land on the Floor Space Ratio Map.

The SLEP2102 Map referred to in subclause (2) above, identifies the site as being subject to a 1.5:1 maximum FSR.

Pursuant to Clause 4.6, the proposed development seeks exception to the 1.5:1 FSR standard prescribed by Clause 4.4.

The site is zoned B4 Mixed Use under the provisions of SLEP2012 where Commercial Premises (including Office Premises), being the proposed use of the site, are permitted with development consent.

This DA therefore relies upon what is reasonable concluded to be the underlying objectives of the standard and the B4 Zone.

### **2.2 The objectives/Underlying purpose of the clause**

A key determination of the appropriateness of a variation to a development standard is the proposal's compliance with the underlying objectives and purpose of the development standard. Therefore, while compliance with the underlying objectives and purpose of the development standard. Therefore, while that is a specified numerical control for maximum FSR, the objective and underlying purpose behind the development standard are basic issues for consideration in the development assessment process.

Part C of this Clause 4.6 Variation address the proposed variation to the Clause 4.4 development standard.

### 2.3 Proposed variation to standards

The proposed development seeks additions to the building at 20-40 Meagher Street, Chippendale. The proposed development will result in a building exhibiting an FSR of 1.7:1 based on a total site area of 1741sqm and a total proposed gross floor area (GDA) of 2610m<sup>2</sup>. The proposed FSR of 1.71:1 represents a breach of 0.21:1 under clause 4.4 of SLEP2012.

**However, note that the current FSR is 1.62:1 and the proposed FSR is 1.71:1 which represents an increase of only 0.09, which is considered minor.**

## Part C: Proposed Variation to Clause 4.4 Floor Space Ratio

Pursuant to Clause 4.6 of SLEP2012, exception is sought from the 1.50:1 FSR standard applicable to the site pursuant to Clause 4.4 OF slep2012. Clause 4.6(4)(a)(ii) requires that such request must establish that the proposed contravention is consistent with the objectives of the standard and the zone.

### 3.1 Objectives of the standard

The objectives of the standard as stated in SLEP2012 are:

- a) To provide sufficient floor space to meet anticipated development needs for the foreseeable future

The proposed development is therefore key to providing the floor space required to support the existing use of the building for commercial use.

- b) To regulate the density of development, built form and land use intensity and to control the generation of vehicle and pedestrian traffic,

The proposed additions to the existing building on the site would still preserve the existing building footprint and building envelope. The exception relates solely to the 160.9sqm addition including storage to the building, where it is proposed to construct the break out area which includes amenities for staff use and storage area.

Accordingly, the density of development and scale of the built form would remain consistent with the established building on the site. This would ensure the development effectively integrates with the streetscape and character of the area.

Trips to the site would primarily be via active transport modes that would be accommodated by existing infrastructure. The site is serviced by an extensive public transport system, including bus stops along Cleveland Street (150m from the site) and Broadway (550m from the site) as well as Central train station (1000m from the site). Formal pedestrian pathways are provided along most streets in the vicinity of the site.

The proposed would therefore not give rise to any unacceptable levels of traffic generation, nor generate any additional traffic congestion to the area.

- c) To provide additions for an intensity of development that is commensurate with the capacity of existing and planned infrastructure.

The proposed additions do not represent any significant intensification of development on the site. The use for the commercial offices represents a relatively low intensive use that is compatible with the conservation of the features of the building. As its purpose of use is a meeting point, collaborative space for use by existing people in the area, it does not increase density/congestion in the area.

On the basis, the development is also considered to be commensurate with the capacity of the infrastructure that already services the site. Any requirement for amenities will be provided by the applicant within its existing site.

Further to the above, trips to the site would primarily be via active transport modes that would be accommodated by the existing infrastructure. The site is serviced by an extensive public transport system, including bus stops along Cleveland Street (1500m from the site) and Broadway (550m from the site) as well as Central train station (1000m from the site). Formal pedestrian pathways are provided along most streets in the vicinity of the site.

The proposal would therefore be suitably serviced by existing infrastructure, including public transport, pedestrian and road networks.

Development contributions in accordance with Council's relevant contributions plan would contribute to funding any other public amenities for which demand is generated by the development.

- d) To ensure that new development reflects the desired character of the locality in which it is located and minimises adverse impacts on the amenity of that locality.

The proposed additions preserve the Meagher Street façade and similarly conserve other features of the building. The new additions have been designed to relate to the existing components of the building with respect to scale, massing, architectural design and materiality. The new development provides an additional amenity to the locality via free to access public educational events. It is also an open to public area which can be used for socialising and collaboration for local occupants.

- Retain and conserve features, fabric, spaces and elements of significance
- Proposed materials for the new building include glazed painted fibre cement sheeting which would ensure a quality finish to the building. The vertical proportions of the proposed windows are in keeping with the character of the conservation area located behind the existing façade.
- The proposed design has architectural merit and would propose a sympathetic yet distinctive building within the Chippendale area, which has been revitalised by recent high-quality architectural design while being sympathetic to the values of the place.
- The occupant has demonstrated its ability to deliver a distinctive building as a Gold Award winner in the Melbourne Design awards

Overall, the proposal is considered to offer a positive contribution toward the surrounding conservation area.

With respect to amenity, the development would not give rise to any adverse impacts. On the basis that the established building footprint and envelopment would be retained (excepting the proposed additions, planter adjacent to the street corner), the proposal would not impact existing levels of solar access, privacy, views/outlook and sense of enclosure. Any potential impacts associated with the operation of the premises would be mitigated through the implementation of the measures within the Plan of Management at Appendix 5.

### **3.2 Objectives of the zone**

The site is zoned B4 Mixed Use under SLEP201, and Commercial Premises including Office premises being the proposed use of the site, are permitted with development consent. The proposed break out area will be used in association with the office use.

The proposal is consistent with the B4 zone objectives in that:

- To provide a mixture of compatible land uses.

The proposal is ancillary to the office use on the site, which is highly compatible with the range of land uses in the surrounding area.

- To integrate suitable business, office, residential, retail and other development in accessible location so as to maximise public transport patronage and encourage walking and cycling.

The proposal integrates within the commercial office premises in a location that is highly accessible by active transport modes.

The site is serviced by an extensive public transport system, including bus stops along Cleveland Street (150m from the site) and Broadway (550m from the site) as well as Central train station (1000m from the site). Formal pedestrian pathways are provided along most streets in the vicinity of the site.

The use of public transport, cycling and walking by staff and guests to access the site would therefore be encourage.

- To ensure uses support the viability of centres.

By supporting the productive use of the site, the proposal would support the viability of centres. As described above, the provision of commercial office premises on the site would positively contribute to the desired mixed used character of the area.

### **3.3 Establishing if the development standard is unreasonable or necessary**

Compliance with the standard would be unreasonable and unnecessary given that the proposal generally preserves the footprint and envelope of the existing heritage building on the site. The non-compliance arises as a result of the existing heritage building exhibiting an FSR that already exceeds the SLEP2012 standard. The relatively minor increase in GFA and FSR results from a small 160.9sqm addition to the building for use as a breakout/collaboration area for the existing office use of the site.

The standard is unreasonable and unnecessary in the circumstances of the case on the following basis:

- The proposal relates to an existing building that comprises a quantity of GFA that exceeds that permitted on the site under the current SLEP2012 FSR standard.
- The proposal maintains the existing building footprint and envelope, excepting the small addition to the building. Accordingly, the density and scale of the built form would remain consistent with the established building on the site, ensuring the development effectively integrates with the streetscape and character of the area.
- The development will not affect neighbouring amenity. On the basis that the established building footprint and envelope would be retained, the proposal would maintain an existing levels of solar access, privacy, views/outlook and sense of enclosure.
- The additional GFA proposed for the site is attributable to the additions of the breakout area that is proposed. The proposal would make efficient use of the existing building, thereby supporting the productive use of a strategically-located site.

Overall, the above justifications demonstrate the compliance with the standard would be unreasonable and unnecessary. The proposed variation is therefore well-founded and acceptable.

### **3.4 Sufficient environmental planning grounds to justify contravening the development standard**

The variation to the development standard for FSR (Clause 4.4) is considered well-founded because, notwithstanding the proposed non-compliance with this standard:

- The proposed development is entirely consistent with the underlying objective or purpose of the FSR standard, as demonstrated in Section 3.1
- The proposed development fully achieves the objectives of SLEP2012 for the B4 Mixed Use zone, as described in Section 3.2
- Compliance with the standard would be unreasonable and unnecessary for the reasons outlined in Section 3.3.
- The proposal effectively supports the significant heritage features of the existing building.
- The footprint, envelope, density and scale of development on the site would remain generally consistent with the existing heritage building, and thereby the building, adjoining buildings, the streetscape and the wider heritage conservation area.
- The development would maintain neighbouring amenity of the public domain.
- The proposal will support the productive economic use of the site that is ideally located within a mixed use precinct and in proximity of major commercial centres and public transport networks.

### **4.1 Development consent must not be granted for development that contravenes a development standard unless:**

**(ii) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out**

- The proposed development is in the public interest as it is in line with NSW government's efforts in creating a technology/creative hub in the City of Sydney
- The additional space will be used as a public accessible gathering space for local residents – The occupant will be responsible for operation of amenities so there is no additional demand for public amenities.
- It will be used as a space for learning, collaboration, creative thinking and social events
- The additional space requested is only a small increase to the current FSR but will add a tremendous amount of value to the area.

For the reasons outlined above, it is considered that the proposed variation to the FSR control is entirely appropriate and can be clearly justified having regard to the matters listed within SLEP2012 Clause 4.6. And by the reasons outlined above, the development approval will not raise any significant matters for the state or regional environmental planning.

## **Part D: Conclusion**

It is requested that Council supports the proposed variation to Clause 4.4 Floor Space Ratio of SLEP212 for the following reasons:

- Consistency with the objectives of the standard and zone is achieved.
- Compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.
- There are sufficient environmental planning grounds to justify contravening the development standard.
- No unreasonable environmental impacts are introduced as a result of the proposal.
- There is no public benefit in maintaining strict compliance with the standard.
- There **is** public benefit in supporting this variation to help foster a technology, innovation and creative hub
- The proposal includes additional commercial floor space within a well-established and well-located commercial location
- The surrounding infrastructure is capable of supporting the additional demand generated by the proposal
- The variation does not generate a height, bulk and scale which is out of character with the locality
- The proposal represents an excellent design outcome
- The proposal is a viable, compatible and desirable form of development

The proposal is considered to be consistent with the objectives of the B4 Mixed Use zone in that it provides public access event space and increases the functionality, amenity and viability of the building. The building is located within a mixed-use location, and is well-connected to various public transport modes. Strict compliance with the floor space ratio development standard is considered unreasonable as the adverse effects of excessive bulk and scale have been minimised through good design. The proposal is considered to be in the public interest as it is consistent with the objectives of the standard and the zone, and the applicant has adequately demonstrated that there are sufficient planning grounds to justify the proposed variation.

Given the justification provided above, this Clause 4.6 Variation is well founded and should be favourably considered by Council as each of the relevant considerations are satisfied for the reasons outlined elsewhere in the report, concurrence can be assumed under Clause 4.6(5).



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